



Iowa General Assembly

2016 Legal Updates

Legislative Services Agency – Legal Services Division

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DEFINITION OF "MEETING" UNDER IOWA'S OPEN MEETINGS LAW

Filed by the Iowa Supreme Court

March 18, 2016

Hutchison v. Shull

No. 14-1649

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Background: In January 2014, the three-member Warren County Board of Supervisors (board) and the County Administrator (administrator) began working on a plan to restructure and reorganize the county's workforce which included a plan to eliminate some existing county employee positions. Each County Supervisor (supervisor) met with the administrator individually in January 2014 to discuss the possibility of a countywide reorganization, but no two supervisors were present at the same time when these meetings were held. In February 2014, the board passed a resolution appointing one of the supervisors to do further research on the issue of a countywide reorganization to determine whether a restructuring plan was necessary. In March 2014, after the county's annual budget was unanimously approved at a public meeting by the board, the administrator, acting pursuant to delegated authority, undertook the task of drafting a written report (county reorganization plan) identifying all county employee positions eventually recommended for elimination and working out the terms of the severance packages ultimately offered to the county employees whose positions had been eliminated. In March 2014, the administrator met on numerous occasions with each supervisor, individually, about the county reorganization plan during which each supervisor held discussions and commented about various aspects of the reorganization plan. The administrator reported each supervisor's comments to the other supervisors, and after several additional meetings between each supervisor and the administrator, the administrator found out from each supervisor whether that supervisor would approve whatever particular aspect of the reorganization plan that had been discussed during a particular meeting. Through this process, the board reached a compromise on various aspects of the reorganization plan and the administrator confirmed with each supervisor, individually, whether the supervisor would ultimately approve the final draft of the county reorganization plan as well as the severance packages offered to county employees whose positions had been eliminated. Every meeting that occurred between the administrator and each supervisor was held in private and without public notice.

In late March 2014, county employees whose positions were recommended for elimination in the report were given layoff notices. Once this information became public, other county officials met with one of the supervisors and the administrator to find out why they had not been informed there were issues with the county budget. The administrator responded that the supervisors could not talk to others about the reorganization as it was necessary that "everything be kept quiet."

On April 16, 2014, six of the county employees whose positions had been eliminated filed a lawsuit in district court against the board, the county, and the supervisors, individually, claiming the board's actions violated Iowa's Open Meetings Law (Iowa Code chapter 21). Two days after the terminated county employees filed a lawsuit in district court, the board held a special public meeting on the county reorganization and the severance agreements which lasted

approximately 20 minutes. The board approved the county reorganization plan and the severance agreements without discussion or deliberation by the board and without public comment.

District Court: The district court held that the supervisors did not violate the open meetings law by failing to provide public notice and hold a public meeting on the county reorganization plan when the administrator met with the supervisors individually because a majority of the supervisors did not deliberate together at a meeting as required by the definition of a meeting under the open meetings law.

Issue on Appeal: Whether the district court was correct in determining that the meetings that occurred between the administrator and each supervisor, individually, did not constitute a gathering of a majority of the members of the board within the definition of a meeting under the open meetings law.

Majority Opinion:

Justice Wiggins, writing for a 4-3 majority, began his analysis by noting that this case involves the statutory interpretation of the definition of a “meeting” in Iowa Code section 21.2(2):

2. “Meeting” means a gathering in person or by electronic means, formal or informal, of a majority of the members of a governmental body where there is deliberation or action upon any matter within the scope of the governmental body’s policy-making duties. Meetings shall not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the purposes of this chapter.

In this case, the supervisors argued that a gathering of a majority of the board within the definition of a meeting for purposes of the open meetings law occurs only when a majority of the members of a governmental body “personally assemble in close temporal proximity,” consistent with the Court’s decision in *Telegraph Herald Inc., v. City of Dubuque*, 297 N.W.2d 529, 533 (Iowa 1980). *Telegraph Herald* was a case involving an interpretation of this same Code section, where the Court held that in order for “serial” submajority gatherings of members of a governmental body to collectively qualify as a meeting of the majority of a governmental body, a majority of the members themselves must deliberate in “temporal proximity” to each other. The Court distinguished its decision in the *Telegraph Herald* case from this case because the employees in this case did not claim that serial submajority gatherings of the supervisors occurred, but argued instead that each meeting that occurred between each supervisor and the administrator during which the administrator deliberated the reorganization plan at the “behest” of another supervisor was the legal equivalent of an informal in-person gathering of a majority of board members involving matters within the scope of the board’s policy-making duties.

The Court opined that construing the term gathering to apply only to face-to-face deliberations where a majority of members of a governmental body are physically present and to serial submajority deliberations of a majority of members occurring in close temporal proximity would be inconsistent with the clear purpose of the open meetings law to assure that all governmental decisions are easily accessible to the public. The Court thus determined that the statute is ambiguous on the question of whether governmental bodies may utilize agents to deliberate on their behalf without complying with the requirements of the open meetings law and stated that the common law of agency should be applied to the facts of the case to resolve this statutory ambiguity.

Holding: The Court concluded that the definition of a meeting in Iowa Code section 21.2 includes a majority of members of a governmental body gathering in person or through the use of agents or proxies to deliberate any matter within the scope of the governmental body’s policymaking duties outside the public view. The Court reversed and remanded the case to the district court with directions to the court to determine whether an agency relationship existed between the administrator and each supervisor, and whether the administrator acted within the scope of her authority in her discussions and deliberations about the county reorganization plan with the supervisors. If the district court finds that both an agency relationship existed and that the administrator acted within her scope of authority, the Court directed the district court to apply the definition of a meeting in accordance with this opinion “to conclude that a violation of the open meetings law occurred.”

Dissents.

Justice Waterman. Justice Waterman, joined by Justices Mansfield and Zager, dissented. Justice Waterman opined that the majority’s decision replaces a clear and easy-to-follow rule with a vague standard based upon a “new” theory of agency that invites litigation and that would have a chilling effect on interactions between public officials and their staff. Redefining the definition of a meeting under the open meetings law is a policy matter for the legislature, not the courts. Justice Waterman opined that the *Telegraph Herald* case established the correct interpretation of Iowa Code section 21.2(2) in which the Court held that “temporal proximity” must exist between all governmental body members under the definition of a meeting and the majority’s decision overrules that holding.

Justice Mansfield. In a separate dissent, Justice Mansfield, joined by Justices Waterman and Zager, took issue with the majority’s characterization of the law of agency, noting that the scope of a person’s agency should be

considered. The district court record supports the fact that the administrator in this case was a type of agent with authority to carry messages between the supervisors, but that the administrator was not a proxy with decision-making authority to work out a restructuring plan--there is a clear distinction between a proxy and a conduit. Conduits and proxies are both agents, but they differ in the scope of their authority.

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